IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 492/2005

Smt. Sukhada Kudke,
resident of Dutelo, Madkai, Goa. ..... Petitioner.

V/s.

1) The Director of Panchayats,
Government of Goa, having office
at Directorate of Panchayats,
Junta House, Panaji, Goa.

2) Shri Dipu Naik,
President, Parampai Citizens Forum,
Madkai-Parampai, Ponda, Goa. ..... Respondents.

Mr. S. D. Lotlikar, Senior Advocate with Mr. D. Pangam, Advocate for the petitioner.

Mr. S. S. Kantak, Advocate General with Ms. L. Dharwadkar, Addl. Govt. Advocate for the respondent No.1.

CORAM : A.P. LAVANDE, J.

DATE : 18TH MARCH, 2006.

ORAL JUDGMENT :

Heard Mr. Lotlikar, learned Senior Counsel with Mr. Pangam, learned Counsel for the petitioner and Mr. S. S. Kantak, learned Advocate General with Ms. L. Dharwadkar, learned Addl.

Govt. Advocate for the respondent No.1. Respondent No.2 though served has chosen not to put in appearance. Rule. Ms. Dharwadkar waives notices on behalf of the respondent No.1. By consent heard forthwith.

2. By this petition, the petitioner assails the Judgment dated 1.12.05 passed by the first respondent in Panchayat Petition NO.DP/PP/11/2005 filed by respondent No.2 against the petitioner.

3. The brief facts, which are relevant for the disposal of this petition, are as under :

On 10.6.05, respondent No.2 filed an application under Section 50 of the Goa Panchayat Raj Act, 1994 for removal of the petitioner as Sarpanch of Madkai Village Panchayat on the ground that the petitioner had issued NOC to M/s. Balaji Metal for dumping industrial waste in the Communidade property without the resolution of the Panchayat. The petitioner filed reply to the said application and pointed out that the NOC which was issued by her was subsequently ratified by the Panchayat. Thereafter, respondent No.1 conducted an inquiry and passed Order dated 2.9.05 holding that there was truth in the allegations made against the Petitioner herein. Thereafter, respondent No.2 issued show cause notice dated 19.9.05, calling upon the petitioner to show cause as to why she should not be removed as

Sarpanch of the Village Panchayat and the petitioner was only given operative part of the order dated 2.9.05. The petitioner filed reply contending, inter alia, that she was entitled to full text of the order dated 2.9.05 in which the respondent No.1 had recorded the findings against the petitioner. The full text of the order dated 2.9.05 was not furnished to the petitioner. Thereafter, respondent No.1 passed order dated 1.12.05, disqualifying the petitioner as Sarpanch of the Village Panchayat of Madkai and ordered her removal as Sarpanch. This order has been impugned in the present petition.

4. The main grievance on behalf of the petitioner is that no reasonable opportunity was given to the petitioner to deal with the findings recorded by respondent No.1 in Order dated 2.9.05 and on this count itself, the impugned order deserves to be quashed and set aside inasmuch as the same was passed in breach of the principles of natural justice. Mr. Kantak, learned Advocate General, appearing on behalf of the respondent No.1 submitted that he would have no objection if the impugned order is set aside and if respondent No.1 decides the application filed by the respondent No.2 after a copy of the Order dated 2.9.05 is given to the petitioner. A copy of the order dated 2.9.05 has been furnished to Advocate Pangam who has received the same on behalf of the petitioner.

5. In view of the statement made by the learned Advocate General, the impugned order dated 1.12.05, passed by the respondent No.1 is quashed and set aside. The petitioner shall submit her reply to the show cause notice within a period of two weeks from today and thereafter, respondent No.1 shall pass an appropriate order, after hearing the petitioner and respondent No.2, within a period of six weeks thereafter. Rule is made absolute in the aforesaid terms. No order as to costs.

A.P. LAVANDE, J.

ssm.